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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/430,501	10/29/1999	DONGMING HWANG	RAL9-99-0110	7395
25299	7590	11/06/2003	EXAMINER	
IBM CORPORATION PO BOX 12195 DEPT 9CCA, BLDG 002 RESEARCH TRIANGLE PARK, NC 27709			KUMAR, PANKAJ	
		ART UNIT	PAPER NUMBER	
		2631		
DATE MAILED: 11/06/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)
	09/430,501	HWANG ET AL.
Examiner	Art Unit	
Pankaj Kumar	2631	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) The period for reply expires _____ months from the mailing date of the final rejection.
- b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
 - (a) they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) they raise the issue of new matter (see Note below);
 - (c) they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. Applicant's reply has overcome the following rejection(s): _____.
4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: 7,8,14-16,24,25,34 and 35.

Claim(s) rejected: 1-6,9-13,17-23,26-33,36 and 37.

Claim(s) withdrawn from consideration: _____.

8. The proposed drawing correction filed on _____ is a) approved or b) disapproved by the Examiner.
9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 11.
10. Other: _____.

As per the IDS:

For items 1-159, assuming these are the same as the original IDS, then these were considered as noted earlier

Item 199 has not been considered since it is a duplicate of item 174

Only the abstract has been considered for the following items - the page numbers cited have not been considered since they were not submitted:

217-221, 225-268

The following items have not been considered since they have not been provided:

Items 222-223

Applicants argue that Kaku does not teach updating a carrier drop detection threshold based on the received signal responsive to a selected data pattern in the signal data since Kaku's system is limited to only two possible thresholds and these thresholds. This is not persuasive since even with two thresholds, in order for an update of a threshold to be achieved, the update just needs to go from one threshold to the other threshold.

Applicants further argue that the thresholds are determined in advance in Kaku while the updating of applicants' thresholds are responsive to a selected data pattern. This is not persuasive since multiple thresholds in Kaku are predetermined at S1 and S4 of figure 9, while the system is operating, and Kaku is updating to these thresholds as a response to a selected data pattern.

Applicants also argue that Kaku works independently of data patterns in the signal. This is not persuasive since Kaku teaches the following which was also cited in the first office action:

(Kaku: “Accordingly, with such a data pattern as shown in FIG. 11, the power (energy) obtained at the power calculation section 84 is reduced to zero. In such an instance, the output CDI (carrier) of the carrier detection section 79A may possibly change over to OFF (carrier absence)...”). Also figure 9 in Kaku shows threshold being determined based on energy level of the data.

Applicant also argues about the term ‘variable’ in claim 1. This is not persuasive since the term ‘variable’ has not been recited in claim 1.

As per applicant’s argument about paragraph 3, although claims are read in light of the specification, limitations from the specification are not incorporated into the claims. Accordingly, the claim is broad enough such that it can be read as stipulated in the prior actions.

As per applicants’ arguments about paragraph 4, applicant says that Kaku does not have JM or CM. This is not persuasive since the office has already related applicants JM and CM to Kaku. This was also explained in paragraph 4 of the prior action:

‘Applicant also argues that Kaku does not update the threshold based on a JM or CM signal. This is respectfully traversed. CM is the signal sent by the call modem and received by the answer modem and JM is the signal sent by the answer modem and received by the call modem, as discussed in the first office action page 3. Kaku’s fig 7 is updating the threshold as already

discussed and fig. 7 is based on the JM or CM signal since fig. 7 is a modem (modulating and demodulating) communicating with another modem and thus it is an call and answer modem depending on its action at a particular time.'

Applicants also argue about Kaku not having a trigger. This is not persuasive since applicants have not claimed trigger.

Claim 17 recites in part "a threshold circuit coupled to the receiver circuit that latches a carrier drop detection threshold based on a current value of the received signal strength responsive to detection of at least one of the CM and the JM signal by the receiver circuit". The receiver circuit can latch a carrier drop detection threshold (Kaku fig. 7 is a receive circuit and fig. 9 shows setting the threshold which is equivalent to latching the threshold for the purpose of on and off CDI—carrier detection indication) and the threshold circuit is just coupled to the receiver circuit (Kaku fig. 9 is part of fig. 7). Kaku's fig 7 is updating the threshold as already discussed and fig. 7 is based on the JM or CM signal since fig. 7 is a modem (modulating and demodulating) communicating with another modem and thus it is an call and answer modem depending on its action at a particular time. Kaku updates the thresholds as a response to a selected data pattern.

As per applicants' arguments regarding paragraph 5, applicant argues that Kaku selects between two thresholds while applicant has claimed setting threshold values. This is not persuasive since Kaku teaches in fig. 9 to "set threshold level" in S1 and S4. Also, Kaku teaches the following as explained in a prior action: setting (Kaku sets the thresholds when developing the system) the

carrier drop detection threshold (Kaku fig. 9: L2) to a value a predetermined amount below the latched output of the signal strength detector (Kaku fig. 9: the latched output of the signal strength detector is P; L2 has to be less than L1 and P since when $P > L1$ (i.e. $P > L1 > L2$) carrier is on; if $L2 > P > L1$ then the carrier will immediately go from on to off and Kaku's system would not be functional) responsive to setting of the flag (Kaku fig. 9: S4: "set counter to predetermined count value").

Applicant argues that setting threshold values based on the latched received signal strength would result in many variable threshold levels instead of just two. This is not persuasive since Kaku in figure 9 is setting threshold levels in S1 and S4 based on energy levels which is correlated to signal strength and Kaku only sets thresholds twice in S1 and S4.

Applicants' argument about measured level is not persuasive since applicants have not claimed measured level.